

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BMC SOFTWARE, INC.,
Plaintiff,
v.
SERVICENOW, INC.,
Defendant.

Case No. 5:15-mc-80252-HRL

**ORDER GRANTING SERVICENOW'S
MOTION TO COMPEL COMPLIANCE
WITH SUBPOENA**

Re: Dkt. No. 1

This is a miscellaneous action ancillary to a patent infringement suit filed by plaintiff BMC Software, Inc. (BMC) in the United States District Court for the Eastern District of Texas. Defendant ServiceNow, Inc. (ServiceNow) moves this court for an order compelling non-party Hewlett-Packard Co. (HP) to provide deposition testimony in response to a subpoena.¹ Specifically, ServiceNow says it seeks a short deposition pertaining to Topics 1 and 2, narrowly focused on the authentication and publication of certain documents. This court is told that HP has provided a declaration pertaining to nearly all of the subject documents and much of the subject matter sought by Topics 1 and 2. ServiceNow says that it is only seeking HP's deposition because BMC has not stipulated that HP's declaration is sufficient for evidentiary purposes in lieu of a deposition.

¹ This matter is deemed suitable for determination without oral argument. Civ. L.R. 7-1(b).

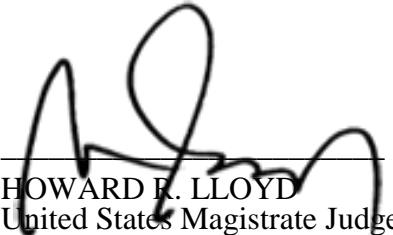
1 HP is willing to produce a witness on the topics specified in the joint discovery report
2 submitted to this court and agrees to do so on a mutually agreeable date no later than November
3 13, 2015.

4 Although this court is told that fact discovery closed on October 13, 2015, ServiceNow
5 says that the parties have been given additional time to complete certain discovery, including HP's
6 deposition.

7 Accordingly, ServiceNow's motion to compel HP's compliance with the subpoena is
8 granted. As soon as possible, but no later than November 13, 2015, HP shall produce a witness to
9 testify about the matters sought by ServiceNow re Topics 1 and 2.

10 SO ORDERED.

11 Dated: October 27, 2015


HOWARD R. LLOYD
United States Magistrate Judge

United States District Court
Northern District of California

United States District Court
Northern District of California

5:15-mc-80252-HRL Notice has been electronically mailed to:

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